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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
Federal-State Joint Board)
On Universal Service)
Report to Congress)

CC Docket No. 96-45

REPLY COMMENTS OF COMCAST CORPORATION

Comcast Corporation ("Comcast")¹ hereby submits its reply comments in the above-referenced proceeding.^{2/} In opposition to the initial comments of a small group of parties, Comcast urges the Commission to interpret and apply the definitions in the Telecommunications Act of 1996 ("1996 Act") in order to promote universal service in a manner consistent with the plain language of the statute and the overarching goal of the legislation: to promote a pro-competitive, de-regulatory communications marketplace. Comcast believes that the Commission throughout this proceeding has acted consistently with the 1996 Act in concluding that Internet access is not a "telecommunications service," that a provider of Internet access service is not required to contribute to the Universal Service Fund ("USF"), and that all competing providers of advanced

¹ Comcast Corporation is principally engaged in the development, management and operation of wired telecommunications, including cable television and telephone services; wireless telecommunications, including cellular, personal communications services and direct-to-home satellite television; and content, through principal ownership of QVC, the world's premier electronic retailer, through majority ownership of Comcast-Spectacor, through its controlling interest in E! Entertainment Television, and through other programming investments.

² Public Notice DA 98-2 (rel. Jan. 5, 1998). In the 1998 appropriations legislation for the Departments of Commerce, Justice, and State, Congress directs the Commission to review its implementation of the universal service provisions of the 1996 Act and submit a report of its findings to Congress. See

telecommunications and information services to schools and libraries should be eligible to receive USF funding.

However, Comcast remains concerned about the detrimental, anti-competitive effects on wireless services that will result from inconsistent and unbalanced administration of the universal service program.³ Comcast believes the Commission should review the extent to which policies and procedures adopted for large local exchange carriers and large interexchange carriers do not appropriately fit carriers of varying sizes, economic positions, or market segments. Further, Comcast requests that the Commission take prompt action to address issues of fundamental fairness and administrative due process because certain carriers and their customers are already subject to the effects of competitive disadvantages.

Comcast also has recommended several potential adjustments to ensure that the USF will be carefully targeted at minimum sufficient levels, and that it will be administered in a competitively neutral manner, based on more accurate revenue estimates, and in a way that allows carriers to forecast their obligations through their fiscal year.

Departments of Commerce, Justice, State, the Judiciary and the Related Agencies Appropriations Act, Pub. L. 105-119, Sec. 623 (1997).

³ Comcast has identified a number of issues with respect to the universal service filings commencing shortly after the Order was adopted, many of which are issues regarding the administrative process. See Comcast Cellular Communications, Inc. and Vanguard Cellular Systems, Inc. Joint Petition for Reconsideration, In the Matter of Changes to the Board of Directors of the National Exchange Carrier Association, Inc.; Federal-State Joint Board on Universal Service, CC Docket No. 97-12, CC Docket No. 96-45, Report and Order and Second Order on Reconsideration, FCC 97-253 (released July 18, 1997). See also Vanguard and Comcast Cellular Joint Petition for Reconsideration in CC Docket No. 96-45 at 2-7 (July 17, 1997).

L. The record provides no rationale for the Commission to change its interpretation of the 1996 Act with respect to its determinations that (i) Internet access providers are not required to contribute to the Universal Service Fund, and (ii) all providers of Internet access – whether or not they are also telecommunications service providers – should be permitted to compete in serving schools and libraries.

Some commenters have argued that the Commission must expand the pool of USF contributors by requiring Internet service providers (“ISPs”) to contribute to the fund, while others have argued that under Section 214 only “eligible telecommunications carriers” should receive support for the provision of universal service to schools and libraries.⁴ The Commission has properly adopted a legal and policy rationale that rejects both of those positions.

The provision of Section 214 restricting universal service subsidies to “eligible telecommunications carriers” does not apply to the Section 254 mandate to promote “access to advanced telecommunications and information services.”⁵ And the 1996 Act clearly exempts Internet access from the definition of “telecommunications services,” and thus from the obligation to contribute to the USF.

It is no coincidence that many of the proponents of greater burdens on Internet access, and the denial of support for Internet access by non-telecommunications providers to schools and libraries, are incumbent local exchange carriers who have much to gain from impeding the competitive, Internet-based alternatives to traditional telecommunications technologies. This is particularly evident in the argument by some parties that Internet access service “could” or “will” become a telecommunications service or a substitute for existing telecommunications services. While a number of potential

⁴ See, e.g., Comments of GTE at 11-14, Ameritech at 3, SBC at 1, BellSouth at 4, and AT&T at 10-11.

⁵ 47 U.S.C. § 254(b)(6).

competitors continue to explore the viability of using packet data services to provide voice communications, such services have not yet proven commercially viable on a meaningful scale. The premature imposition of regulatory burdens and assessments based on the “potential” of Internet access to deliver other services would therefore be irrational and anti-competitive. Moreover, the Commission and Congress can certainly respond to technological and marketplace developments as they occur, but they should not regulate Internet access at this time based on unproven and speculative assumptions about future applications.⁶

In their initial comments, a small number of commenters also claim that ISPs rely heavily upon, and benefit from the ubiquity of and expanded subscribership to, the public switched telecommunications network (PSTN), and that the imposition of USF assessments upon such providers would therefore be appropriate.⁷ Whatever the merits of that argument as to certain ISPs, it certainly fails as to Internet access delivered over cable systems.

Through high-speed cable modem services, Comcast and other cable companies are expanding the availability of state-of-the-art Internet access to residences, businesses, schools and libraries through two-way cable-based communications. These services place no additional burden – indeed, they alleviate the burden – on the PSTN. The impact of cable modem services on the PSTN is further reduced as companies such as At Home Corporation deploy their own Internet backbone networks.⁸ Even if the USF assessment

⁶ See Closing Remarks by Larry Irving, NTIA, “New Frontiers on the Information Superhighway: Internet Telephony Forum”, September 4, 1997. See also “Keep High Technology Free from Washington Interference”, Senator Spence Abraham, Congressional Record, Vol. 143, No. 156, p. S12078.

⁷ See, e.g., Comments of Airtouch at 29-30.

⁸ “@Home Network Lights up National Backbone”, @Home Network press release, September 11, 1996.

on Internet access were permitted by statute, it would be bizarre to mandate USF contributions by service providers that are reducing, rather than increasing, the burden on the PSTN.

Finally, in response to the argument that it is inequitable for ISPs who are not telecommunications providers to take subsidies from a pool into which only telecommunications providers pay, Comcast has previously demonstrated that (i) every ISP, whether it is affiliated with a telecommunications provider or not, is treated the same under the Commission's rules, and (ii) it is certainly not unprecedented to have the class of contributors toward a social good vary from the class of recipients.⁹

Congress did not direct the Commission to require that Internet access providers contribute to the USF pool. The Commission has properly rejected arguments to the contrary, and it should reject this new round of arguments as well. Moreover, by promoting competition in the provision of advanced telecommunications and information services to schools and libraries, the Commission has adopted a pro-competitive, deregulatory policy that results in the highest quality service at the most competitive prices, constrains the need for public subsidy, and properly carries out Congressional intent.¹⁰

⁹ See Comments of Comcast Corporation, CC Docket No. 96-45, January 26, 1998, at 8-9 ("Comcast Comments").

¹⁰ See Comments of Education and Library Networks Coalition at 6.

II. The Commission must take additional steps to ensure that universal service subsidies are appropriately targeted and are based on accurate revenue estimates.

Comcast has consistently supported the public policy goal of promoting universal service, and particularly the importance of promoting access by schools and libraries to advanced telecommunications and information services. Given the need to balance the advancement of universal service with efforts to promote the continued competitive development of wireless and wireline telecommunications services, the Commission must ensure that the USF is carefully targeted to yield the minimum sufficient funding to recipients truly in need.

Comcast previously recommended how the Commission can appropriately target subsidies and ensure competitive neutrality. These recommendations include: (1) establishing accurate revenue estimates that apply fairly to wireless carriers, (2) offering more complete guidance and using consistent assumptions for similarly situated competitors to establish revenue estimates that do not create inequities among such competitors, and (3) establishing the federal universal service mechanism as the sole means of assessing wireless carriers for universal service.¹¹

Several parties raise issues concerning the development of state universal service programs,¹² as well as the importance of examining the federal-state relationship in resolving pending universal service issues.¹³ Comcast concurs with those who ask the Commission to constrain the development of potentially duplicative state programs, and to make other adjustments and clarifications to the implementation process in order to promote competitive neutrality among and within industry segments, including CMRS.

¹¹ See Comcast Comments at 10-15.

¹² See Comments of Sprint Spectrum at 6, Airtouch at 38, and CTIA at 4.

Comcast supports the call for review of the consistency of state programs with the statutory principles of universal service, in order to ensure that CMRS carriers are able to participate fully in any state programs if they elect to provide “universal service.”¹⁴

Comcast also recognizes the need for review to guard against the creation of competitive inequities that result from imposing processes suitable for incumbent LECs on competitive providers, such as requiring wireless carriers to distinguish between “interstate” and “intrastate” revenues.

Comcast also agrees with the need to ensure accurate revenue estimates by carriers for the purpose of determining assessments, and the company is especially concerned that the current process of estimating such revenues may be neither fair nor competitively neutral with respect to wireless carriers.¹⁵ The Commission’s next step must be to promote accurate revenue reporting without imposing the burdens of excessively detailed cost and revenue reports on carriers or the Commission.

Comcast has highlighted steps to mitigate the likelihood of competitive inequities for wireless carriers relative to incumbent LECs, and among competing wireless carriers themselves, that result from allowing a variety of “good faith” revenue estimates which are highly inconsistent.¹⁶ It is clear that the existing process of revenue reporting creates an opportunity for systematic underreporting or overreporting. Therefore, the Commission must establish competitively neutral methodologies for revenue reporting

¹³ See Comments of Bell Atlantic at 3, State Members of the § 254 Federal-State Joint Board at 7.

¹⁴ See Comments of Sprint Spectrum at 6; Airtouch at 38; See also Comcast Comments at n. 12.

¹⁵ See Comments of AT&T 13-14.

¹⁶ See Comcast Comments at 11-15.

relevant to distinct technologies.¹⁷ The Commission should also avoid excessive and unnecessary reporting burdens on carriers that lack the resources or the established, compatible accounting procedures of incumbent LECs (or large IXC) (e.g., a Uniform System of Accounts) to respond to highly detailed reporting requirements.

III. The Commission must establish a definitive and consistent mechanism for the treatment of the recovery of USF contributions on customer bills.

Comcast endorses the view advanced by several commenters that the Commission must adopt a definitive mechanism for how all contributors to the universal service fund recover the assessment in customer bills. Absent such conclusive guidance, customers are likely to confront wide variation in billing practices among different industry segments, and among carriers within a specific industry segment, which inevitably will lead to substantial, albeit unintended, customer confusion and competitive disadvantages. This confusion and uncertainty will only serve to undermine the legitimate effort to advance universal service.¹⁸ Comcast joins with those who call upon the Commission to remedy this confusion by adopting a uniform policy on the use of explicit surcharges or adjustments to end user bills.

IV. The Commission must ensure appropriate targeting of subsidies for rural, high cost areas, and it must avoid policies that discourage competition for the provision of universal service in such areas.

The Commission must establish an appropriately targeted subsidy for rural, high cost areas. This must be done promptly, based on analytical tools that accurately identify

¹⁷ Comcast also agrees that the Commission should clarify how carriers should treat “bundled” services and revenues. See CTIA comments at 2.

minimum necessary subsidy areas and recipients within communities. High-cost subsidy areas should be defined in the most narrow and precise geographic terms possible.

Theoretical cost proxy models will be useful in this endeavor only to the extent they can be shown to be accurate and sophisticated econometric tools for identifying cost levels for communities that should receive subsidies, thus yielding a minimum necessary, yet sufficient flow of subsidy funds.

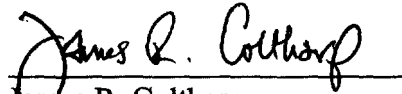
Moreover, to the extent that wireless carriers and other new or alternative service providers may be certified as eligible telecommunications carriers, the Commission must ensure that universal service programs do not create artificial barriers to competition in high cost areas. The Commission should be wary of subsidy structures that assume that the monopoly position of incumbent LECs in rural communities will endure, or any presumptions that favor subsidizing incumbent LECs rather than potential competitors.

¹⁸ See, e.g., Comments of AT&T at 4. See also "Some MCI Customers Seeing Surge in Phone Bills", Washington Post, January 31, 1998, at p. H3; "MCI Defends Extra Charges for Access Reform", Communications Daily, February 2, 1998, at p. 3.

V. CONCLUSION

The Commission has correctly applied the regulatory definitions related to universal service in the 1996 Act. However, the current universal service program should be reviewed with respect to the manner in which the rules are applied to wireless carriers because of distinct technological and competitive conditions in that marketplace.

Respectfully submitted,



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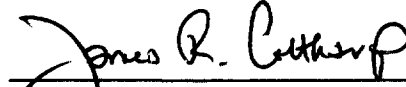
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CERTIFICATE OF SERVICE

I, James R. Coltharp, do hereby certify that on this 6th day of February, 1998, a copy of the foregoing Reply Comments of Comcast Corporation the Report was hand delivered to each of the parties listed below.


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